

Oct 6 1 43 PM '83
83-2503

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

OCT 6 1 43 PM '83

October 5, 1983

LEGISLATIVE REFERRAL MEMORANDUM

TO: LEGISLATIVE LIAISON OFFICER

SEE DISTRIBUTION ATTACHED

SUBJECT: H.R. 3939, "The Regulatory Oversight and Control Act
of 1983" (Summary attached)

The Office of Management and Budget requests the views of your agency on the above subject before advising on its relationship to the program of the President, in accordance with OMB Circular A-19.

Please provide us with your views no later than

Thursday, October 27, 1983.

Direct your questions to Branden Blum (395-3802), the legislative attorney in this office.

*Let phone call
to Mr. Blum - "no
objection" ROR
10/27/83*

[Signature]
James C. Murr for
Assistant Director for
Legislative Reference

Enclosure

cc: B. Bedell	F. Fielding	E. Strait	R. Howard	J. Hill	M. Allen
W. Weiss		R. Adkins	D. Crabill	B. Martin	K. Wilson
M. Horowitz	J. Walker	D. Kleinberg	H. Loweth	P. Szervo	

DISTRIBUTION LIST:

Department of Agriculture
Department of Commerce
Department of Education
Department of Defense
Department of Justice
Department of Labor
Department of Health and Human Services
Department of Housing and Urban Development
Department of State
Department of the Treasury
Department of Transportation
Department of the Interior
Department of Energy
Veterans Administration
Environmental Protection Agency
Small Business Administration
Securities and Exchange Commission
Office of Personnel Management
Federal Trade Commission
General Services Administration
Merit Systems Protection Board
Interstate Commerce Commission
Administrative Office of the United States Courts
Federal Communications Commission
Consumer Product Safety Commission
Commodity Futures Trading Commission
Federal Deposit Insurance Corporation
Federal Maritime Commission
Federal Home Loan Bank Board
Federal Emergency Management Agency
Nuclear Regulatory Commission
United States Postal Service
Central Intelligence Agency ✓
Civil Aeronautics Board
National Credit Union Administration

BRIEF SUMMARY OF THE "REGULATORY OVERSIGHT & CONTROL ACT OF 1983"

TITLE I -- AGENCY RULEMAKING IMPROVEMENTS
(Amendments to the Administrative Procedure Act)

Regulatory Analysis of Major Rules -- Agencies would be required to perform regulatory analyses of major rules and alternatives. Major rules are those which the agency or President determine would have an annual impact on the economy of \$100 million or more or would otherwise have a substantial impact. The agency would be required to choose the most cost-effective alternative unless another alternative is mandated by the underlying statute. The President (or the Vice President or other Executive Officer confirmed by the Senate) would establish guidelines for compliance and would review and monitor compliance. The Comptroller General may also monitor compliance.

Regulatory Agenda -- Each agency shall publish in the Federal Register in April and October of each year a regulatory agenda listing all rules the agency tends to propose, promulgate, modify, repeal or otherwise consider in the next 12-months. Certain information is required to be included with each rule listed on the agenda.

Agency Review of Existing Rules -- Not later than nine months after the effective date, each agency shall publish in the Federal Register a schedule for the review of existing major rules over the next ten years. A final schedule would be published not later than six months later, after public comment. The President could add rules to this review schedule. The reviews would be subject to the same comment and analysis requirements as new major rules.

Sunset for Major Rules -- All newly proposed and existing major rules scheduled for review shall include a date on which they shall cease to be effective, not later than 10 years after they are initially effective, in the case of new rules, and according to their sunset review schedule for existing rules.

Informal Rulemaking Process -- The informal rulemaking process is amended to provide greater notice, information, and opportunity for oral and written public comment.

Judicial Review (modified "Bumpers Amendment") -- When agency actions are challenged in the courts, the courts shall independently decide all relevant questions without according any presumption in favor or against the actions.

Appeals of Agency Orders ("race to courthouse" problem) -- When agency actions are challenged in two or more courts of appeals within ten days of their issuance, the Administrative Office of the U.S. Courts shall, by random selection, designate one court in which the record shall be filed.

Intervenor Funding -- Federal funds could not be used for public participation in agency rulemaking proceedings unless specifically authorized by law.

TITLE II -- CONGRESSIONAL REVIEW OF AGENCY RULES
(Amendments to Administrative Procedure Act)

Submission and Review of Agency Rules -- Agencies would be required to submit most rules of general applicability to Congress for a 90-day review period. The rules would be referred to one committee of primary jurisdiction in each House or to an ad hoc committee if more than one committee has primary jurisdiction.

(OVER)

-2-

Congressional Action on Rules -- Major rules could not take effect unless a joint resolution of approval is enacted within 90-days of continuous session of Congress; other rules could take effect unless a joint resolution of disapproval is enacted within the 90-day period, and could take effect sooner if neither House has acted on a resolution within 60-days or if either House has rejected a resolution.

Committee Consideration of Resolutions -- In the case of major rules, resolutions of approval must be introduced by the chairman (or his designee) of the committee to which the rule is referred within one day after the rule is received, and the committee would be required to report the resolution not later than 45-days after receipt of the rule, or would thereafter be discharged of the resolution. Other rules would be subject to joint resolutions of disapproval which the committee could report at its own discretion or would be required to report if a "motion for consideration" is filed within 25-days after the rule is received and is signed by one-fourth of the membership of the House involved not later than 30-days after the rule is received. If the committee has not reported such a resolution within 45-days after receipt of the rule, the resolution would be discharged.

Floor Consideration of Resolutions -- Resolutions reported or discharged would be referred to the appropriate calendar of the House involved, a motion to proceed to their consideration would be privileged and, if adopted, debate on major rules resolutions would be for two-hours, and for other rules resolutions, one-hour. If one House receives a resolution from the other House and has not reported or been discharged of its own resolution within 75-days after the rule is received, the resolution of the other House would be placed on the appropriate calendar.

TITLE III -- REGULATORY OVERSIGHT & CONTROL AMENDMENTS TO HOUSE RULES (Amendments to the Rules of the House)

House Regulatory Review Calendar -- A Regulatory Review Calendar would be established in the House to which all joint resolutions of approval and disapproval would be referred once reported or discharged from committee. The Calendar would be called on the first and third Monday and second and fourth Tuesday of each month after the approval of the Journal. Priority consideration would be given to resolutions for rules whose review period would expire before the next calling of the Calendar. Motions to proceed to the consideration of a resolution would be nondebatable except for resolutions discharged pursuant to a "motion for consideration" signed by one-fourth of the membership, in which case the motion would be debated for twenty minutes.

Regulatory Appropriations Riders -- The present House rule restricting the offering of limitation amendments to appropriations bills would be amended. At present such limitation amendments can only be offered after other amendments are disposed of and only if the House votes down a motion that the Committee of the Whole rise. Under the proposed rule change, limitation amendments could be considered during the initial amendment process with respect to regulations for which a resolution of disapproval has not been considered by the House, or has been passed but not enacted, during the specified review period.

Oversight Improvements -- Committees would be required to formally adopt oversight plans at the beginning of a Congress and their funding resolutions could not be considered until the plans have been submitted to the Government Operations Committee. Committees would also be required in their final oversight reports to relate their actual oversight activities and accomplishments to their original plans. The Speaker could create special ad hoc oversight committees, subject to House approval.